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Former members of Council comment on Council, courts

Former members of the Judicial Council of Georgia recently had an opportunity to make suggestions for improvements to the Council and the judicial system and other comments on the Council's activities and needs.

They addressed the Council at its first meeting of the current fiscal year — the July meeting held at Jekyll Island.

The remarks ranged from the need for funding to sentencing practices and the restructuring of Council membership.

Following are excerpts of these comments, arranged by topic and identified by speaker.

General

Of all the improvements that have come during the decade of the 1970s, none have been more satisfying to me than the creation of the AOC and the Judicial Council. The AOC has become a truly professional, state-wide administrative organization. Its policy board of directors (the Council) make up the only non-parochial judicial body in the state. It is a historical truth that whenever judges of a particular court get together on a policy matter, their approach and policy tend to be parochial. The Council has been and should continue to be just the opposite. Why? Because it is drawn from all the major parts of the judiciary and includes the leadership of the State Bar. Because no one part of the judiciary has absolute control of its

decisions, the Council offers a pluralistic approach to the problems that face the judicial branch. For this reason its recommendations to the legislative, executive and judicial branches of government have, in the main, been respected and accepted. The clearest illustration of this has been in reference to the need for additional judges.

— Justice Robert H. Hall

...I have been troubled for some time about the Council and about the

direction the Council is going and about some of the things the Council is doing...the Council is at a watershed right now. The concept of court administration is at a watershed right now. I think it might be well for the current Council members to look back and see where we came from and how we got where we are, and where we are going in the future. I think — as far as modern times are concerned — the movement towards judicial reform in Georgia began either in September of 1964 or September 1965 with the convening of what was then known as the Citizens' Conference on the Judiciary... Laymen from all over the state were brought in under the sponsorship of the American Judicature Society. They recommended three things, essentially:

- that courts be created that are uniform in character and nature and administration;
- that development of a system of merit selection continue; and
- that a system of judicial discipline, removal and involuntary retirement be created.

After that, the State Bar picked up the cause of judicial modernization, as I prefer to call it, rather than judicial reform. As that movement was born, nourished, fought for, and bled for almost entirely by the members of the bar, it had almost the unshirted opposition of the members of the bench.

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The Judicial Council was created, after much negotiation and some hard feelings, as an independent body — independent of the legislature, and independent of the Supreme Court — to act as the administrative body for the courts in Georgia. Somehow, something happened to it and it wasn't effective. I don't know why. I think that we all need to look introspectively to try and determine why. That is the past and what's happened now is the Supreme Court has taken over the Judicial Council.

What you have lost is your independence. What you have gained is the ability to do your job. Up to this point the Judicial Council had not had real authority to do anything but to recommend. With the Judicial Council becoming an arm of the Supreme Court, for the first time, the Council has the potential of being able to get into the area of court administration and really create viable, meaningful court administration in Georgia.

— Judge Irwin W. Stolz, Jr.

The fundamental thing in my mind about the Council in the last twelve months is how it feels for the Council to be six, going on seven, years old...My personal opinion is that the fact that the Council is here and is viable and strong, and did not get abolished in the last legislature, is evidence of its need in our system. This comes back to the fundamental bias I've had about the Council for a long time; that it was either legislative or judicial and that it needed to find out where its rightful place was. I feel that the judicial branch is where it is and where it ought to be. Although it was created by the legislature, it has gone through the same process as did the State Bar, that of being re-created by the Supreme Court.

— W. Stell Huie

...I don't think a person can appreciate the Judicial Council and what it has meant unless he has served as a superior court judge before there was a Judicial Council. We who served in the earlier days know that 10 years ago in Georgia the only superior court judges who even had a secretary were the ones in Fulton County, Bibb — maybe, and Chatham. Those guys like Jim [Judge James B. O'Connor], Walter [Judge Walter C. McMillan, Jr.] and I served out in the boondocks, did our correspondence by longhand or got a court reporter to do it, or hired our own secretary and paid her out of what we were paid. We didn't have

"The work that the Judicial Council has done in case counting, reporting and in the recommendations to the General Assembly on the creation of new judgeships is one of the greatest steps that we have made."

— Judge Marcus B. Calhoun

any kind of central organization to which you could go for help. Of course, we had the Council of Superior Court Judges but it was a volunteer organization and didn't have much clout. We had the State Bar, but at one time it was a volunteer organization and it didn't have any clout either. We didn't have any central organization to which we could go with problems, or could call if we did have a problem. The Judicial Council rectified that problem, and we now have a central organization of judges which can help us. They have helped us.

Before the advent of the Judicial Council, I don't believe I ever heard the concept of the third equal branch of government. I don't believe the judges themselves thought that they were an equal branch of government. We certainly did fight for equal status, but I think the judges now are convinced — I know I'm convinced — that the judiciary is — and should be — recognized as an equal branch of government. Separate. And not under the control of the legislature or the executive branch. It has its own separate powers under the constitution. If you will read the constitution, it says that. I believe we have an obligation to convince the public of that. I think the Judicial Council works along that line.

— Judge Marcus B. Calhoun

I have great admiration for the work that the Judicial Council has done over a period of years, and the strides that it has made...I would like to mention one or two things about the reactions [to the Council] I hear around. For one thing, I think the fear of the Judicial Council/AOC has diminished materially in the last few years. I can remember the time when I would go into a clerk's office (particularly some of the clerks' offices in my circuit) and I would be almost lynched before I could get out of there. I am beginning to find now that these people are no longer so much afraid of the Council/AOC. The same thing would be true as I would go into some probate courts. Now, I do not hear the fears there.

At the same time, as I go into superior court judges' offices and lawyers' offices, I don't be-

lieve I hear any unbridled optimism about what may be accomplished for the system by our existence. There is a little danger by not now being feared. We may become a little too complacent. The things that I seem to hear from the public and from the folks who are in and out of the courthouses is that there is still some dissatisfaction.

This dissatisfaction seems to me to boil down to three things: results, the time it takes and the money that it costs. I don't know that you can divorce any of those things from the other. I hear some people who have become concerned that we may have become complacent to the point that we are really involving ourselves too much with make-work activities and not getting down to the guts of saving time, saving money and getting results for the public.

Of course, we do need to remember these things exist in order that the public can be well served.

— Harold G. Clarke

Funding

First, a brief remark about my four years on the Council. At the time, we were two years old. We were very active, doing a lot of things, perhaps not always using the best judgment. We had tons of federal money thrust at us with programs going in every direction. We had a staff of over 40. And then the federal money started drying up. When we turned to the General Assembly, we found ourselves reacting because the General Assembly members were offended by being asked to pick up the tab for programs in which they had no input.

Or, it may have been symptomatic of the attitude they had towards us anyhow.

So we went from a period of acting to reacting. I hope we never have to get to that again.

We've cut down on our programs. Our staff is now a few more than 20, and we have a better understanding of what our role is. I don't think it would hurt to go back and look at all the programs we have. Look at the good and bad, and where we failed. It might help us gain a perspective on which direction we should take.

— Judge Frank S. Cheatham, Jr.

"What you have lost is your independence. What you have gained is the ability to do your job."

— Judge Irwin W. Stolz, Jr.

est salary increase was obtained in judicial salaries. However, in 1978 and 1979 we were not too successful in substituting state for LEAA funding for court administration. In my opinion this should be your main goal for 1980.

If you fail in 1980 to obtain adequate state funding, I fear that the predicted economic slowdown will cause continuing financial problems for court administration in the 1980s. LEAA funding will soon be a matter of past history.

In other words, you really need to go all out for appropriations in the 1980 Session of the General Assembly. Your most potent troops for this battle are the state trial judges who live in the same area with the members of the General Assembly.

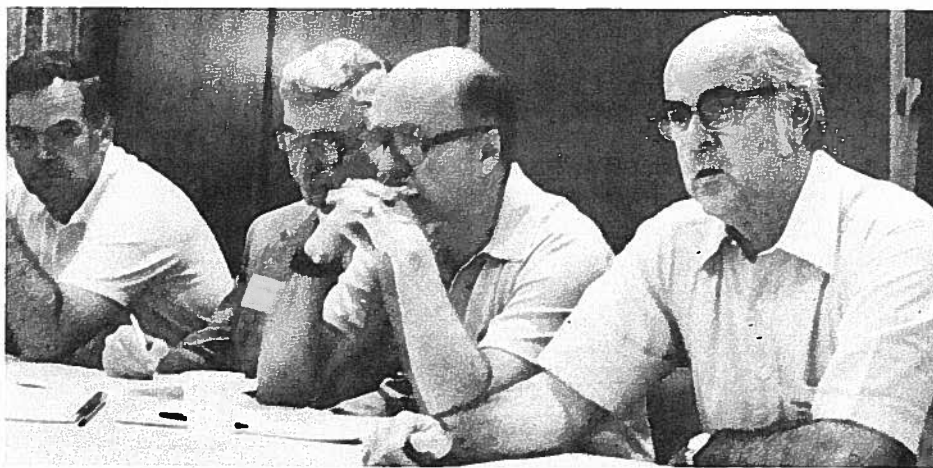
— Justice Hall

If eventually they turn over some payrolls or other administrative tasks to the AOC, it could be that we are going to have to start getting ready to accept those additional tasks. I know that it is hard to do that. Right now as it looks like they are cutting you instead of adding, but it could be that we are going to have that task some day, and we should start laying groundwork for that so if it does come to pass, we will be able to cope with that problem...

...I might say that I certainly hope that the judges that are not on the Judicial Council will support the Judicial Council/AOC in legislative problems, not only in new laws that are going to be passed, but also in getting the finances necessary for this group to operate. I think a lot of us have been sitting back and, really, have not done too much about it. I feel that all of us should get behind the Judicial Council/AOC and try to encourage our legislators to support this group. This is the only group that the judges have to represent them, and we ought to do everything we can to help support them through the legislature. I think we could get the judges' support with the legislature — if we laid some groundwork beforehand.

— Judge Hal Bell

...If this is the last year for federal funding, it becomes imperative that this Council and the Administrative Office of the Courts be institutionalized as far as state funding is concerned — if it is to be effective. It is the only way it can have long-term success. Judge [Paul W.] Painter was telling me that the judiciary is getting slightly more than one-half of one per cent of the state budget — and certainly the judiciary ought to be entitled to round off that



JUDGE HAL BELL SPEAKS AT COUNCIL MEETING
(L-R) Judge H.M. Crane, Jr.; Charles H. Hyatt; Harold G. Clarke; Judge Bell

figure to the next highest percentage point and get one per cent of the state budget with which to operate the judicial branch of government.

I think the key area, and one of the most sensitive areas that will be facing the judiciary in the future in these times of double-digit inflation, will be the question of economics.

That needs to be addressed.

There are only two groups in Georgia that can address that. One is the Judicial Council with the aid and support of the councils of superior court judges, juvenile court judges, probate judges and all the other courts groups. The other is the State Bar of Georgia. The problem with judges' working on fixed salaries in an age of double-digit inflation is going to cause profound problems in the judiciary if that problem, and that fact, is not addressed quickly.

— Judge Stolz

The most necessary ingredient for the success of your endeavors lies in public funds to properly carry out your assigned functions. Unfortunately, the AOC and Council were created and got started during a period of economic recession. For this reason the major resources had to come from federal funds (LEAA). In a recent publication, the most noted expert on court administration in this country has said that one of the three most noted accomplishments of LEAA funding in the nation has been the creation of the Georgia AOC and Judicial Council.

— Justice Hall

Public Relations

...I do think the area in which the Judicial Council/AOC should work is PR. I recommend the appointment of a real energetic member of the Council, one that will be there for a period of time, to work on a PR program. There is pretty good PR in the press releases that you put out. I would like to see you go out into the state and speak through speakers' bureaus, to civic clubs, state organizations, sheriffs' organizations, anyone connected with the courts, to let them know what is going on.

Publications, such as probate court judges' handbooks, are a real help. However, there probably isn't one person out of a hundred in Georgia that even knows you exist, and these things need to be brought to the attention of the public. I am not talking about lawyers. You could perhaps even get time on TV and just sit down and have a workshop. Get down to such things as related to the administration of justice — in layman's terms — how you bring trials about, how you save money for taxpayers, how you improve the administration of justice through the administrative districts. I think you need to take a very practical approach. You have got to do this in order to get this across. The average layman thinks his tax dollar is being wasted, *unless* he knows what is going on. Continue to have a good relationship with the legislature.

— Wilton D. Harrington

"...I certainly hope that the judges that are not on the Judicial Council will support the Judicial Council/AOC in legislative problems, not only in new laws that are going to be passed, but also in getting the finances necessary for this group to operate...This is the only group that the judges have to represent them..."

— Judge Hal Bell

I feel that we are not yet doing the job in public relations that we ought to. By public relations, I mean not just what we present to the general public of the State of Georgia, but also what we present to our brothers in the judiciary. I find by being on the outside, I hear a whole lot more criticism of the Council than I did when I was a member of the Council. People are freer to talk about it now to me than they were before. I think that we ought to, or I ought to suggest to you, that we re-examine the impact that you make both on the general public and on the judiciary with our activities.

As far as the general public is concerned, I think the Council, through the AOC, ought to

**"...I don't think a person can appreciate the Judicial Council and what it has meant unless he has served as a superior court judge before there was a Judicial Council."
— Judge Marcus B. Calhoun**

undertake to provide ways in which the Council could project to the public. In projecting to the public, I don't mean talking about just the Council; I am talking about presenting to them programs on the judicial system. There is no point in beating our drums to the public about the Judicial Council. Let's talk about what judges do. How they make their decisions. Why they do things a certain way. How the legislature controls certain aspects of the judiciary.

Talk to the voting public about the system. And talk to the judges about the Council itself, and let them understand what are we doing. I know judges who take the *Courts Journal*, glance at it to see if they see any pictures of friends of theirs, and throw it away, and never read the first paragraph.

One way I think you might be able to get a little better response out of the judges is to have members of the Judicial Council — not just staff members — attend many of these meetings of other organizations of judges, particularly the administrative district judges. Let them ask questions as to areas of improvements, evaluation of current progress, the need for increased services, and then report back directly to the Judicial Council.

I don't know a better way you can find out what the judges want.

You can't do it by sending out questionnaires, or by informal discussions, as well as you could if you had an official representative out there.

I don't know if these organizations would want someone there from the Council, but it ought to be looked into.

— Judge Kenneth B. Followill

...Back when we started out, we not only had to work hard, but we also had to sell ourselves. I can remember back when the clerks were all skeptical of us, in addition to lawyers and probate judges. The general public was also skeptical and scared of the Judicial Council. I think that has been dispelled.

I think one of the things we could do is talk to civic clubs, etc., and get to the public through media or by speeches, etc. Most things can be explained and people will accept them if you have a good explanation. Our judiciary has been improved a lot with additional judges. I can't say anything but *good* things about the overall performance of the Judicial Council of Georgia.

— Judge Gray

Judicial Administrative Districts

...I think the administrative district concept is working — at least in our area it is working. I know the AOC/Judicial Council has been very

supportive of that. I ask that the AOC/Judicial Council continue with the fine cooperation that they have given us in the past.

— Judge McMillan

...I hope that the AOC/Judicial Council will steadily continue to work very closely with these district councils and the administrative judges because I think probably we are the ones that touch base with the judges...the lawyers...and all...and we can certainly bring to you first-hand information on problems that might creep up on the judiciary, that you do not know about.

I would certainly urge upon the AOC and the Judicial Council to keep in close association with the administrative judges and the district councils. In fact, it would not be a bad idea if the AOC could let somebody go down to the district council meetings from time to time just to be there and see if there are any problems that should be presented and worked out. In the past we have had little problems between the AOC and the administrators, and I think now that these are being worked out. I know that there is going to be a closer relationship between the two, and I think that it will help both of us — working together and working harder — to see that things are accomplished.

— Judge Bell

My concept of the administrative districts is one of great importance. I look on the administrative districts as a judicial framework for the entire judicial system under the administrative umbrella of the Judicial Council and the Supreme Court of Georgia. I think the administrative districts ought to be looked at as the framework culminating in the AOC. I think the director of the AOC should be the central office for the administrators.

— Judge Marion T. Pope, Jr.

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— Judge Hal Bell

Sentencing

I know we do have disparity of sentences. I think it has been improved a great deal since they let judges do all the sentencing. I would emphasize that I would want to be very careful to never take away from the judge the ability to sentence. The judge hears all the evidence from both sides.

We talk about negotiation of pleas and plea bargaining. Those are dirty words but frankly I don't know what we would do without them...Everything would break down if we didn't have negotiated pleas.

I believe that when a judge has pronounced a sentence it should not be withdrawn. We probably need some legislation on that.

— Judge J. Bowie Gray

As to sentencing disparity: (after having served on the Sentence Review Panel, Judges [Joseph J.] Gaines, [Paul W.] Painter, [Charles L.] Weltner and I forwarded to the Sentence Review Panel's Administrative Board certain recommendations addressing problems in the sentence review process.) ...the 30-day filing requirement, when strictly adhered to, creates some administrative problems. The absence of a transcript [plea and sentence transcripts and presentence investigation] may jeopardize a prisoner's opportunity to have his sentence reviewed. The judge has to decide whether or not he advised that prisoner he had a right to sentence review.

If an individual receives two consecutive sentences by more than one judge, he can be sent to prison for more than five years without an opportunity for review. The third problem is one of practice. The statute does not provide for a rehearing in the review process, but neither does it deny it. It is my view — and the view of the other members of that particular panel — that the purpose of the statute was to avoid harsh treatment of a prisoner, whether the sentence be imposed by one judge of one circuit, or by several judges in several circuits...

It is necessary on occasion to provide an out-of-time review. This is a great deal of administrative trouble to the clerk, but occasionally a great conflict as to what actually occurred raises enough merit for out-of-time review. If anyone wants his sentence reviewed, he should have the opportunity to have it reviewed. It would take very little time, on a first

"I really think there is a problem in sentencing at the other end of the criminal justice system in corrections and parole. I think the public gets upset about it because when you give a 20-year sentence, it doesn't mean a 20-year sentence."

— Judge G. Ernest Tidwell

State Bar Liaison

I also urge the continued relationship between the State Bar and the Council because we mutually help each other. The State Bar can help the Council. An example of this is when Senator Langford tried to abolish the Judicial Council. The State Bar has some 12,000 members now, and these people can get out and talk to legislators. I urge our working together to improve the administration of justice.

— Harrington

Restructuring of Council Membership

I think one of the top priorities, immediately, is the reorganization of the Judicial Council. I would like to refer to it as having been "born again." I think the state appropriation to the Council is going to be the umbilical cord. Some thought we might not get state funding at the last session. Some thought that the General Assembly might not appropriate anything. Even though they disliked the petition to the Supreme Court, that didn't happen.

I thought the petitioning to the Supreme Court was rather courageous of the Council. I am strong in support for an equal judicial branch of government...The principles of law are in the constitutions of Georgia and of the United States. But we are not yet there and it is going to take some other courageous and bold steps to have a third branch of government...I think reorganization and appropriations are two major steps that you are going to have to address — because of lack of federal monies.

— Judge Pope

...I don't think anything has been decided as to how the Council is going to be restructured. I think that it is important to keep in mind that that decision — at least based on the information that I have — is not final. That will be a matter that will be considered both by the Judicial Council, and the Council of Superior Court Judges and the Supreme Court, in the months to come.

— Judge Tidwell

...I will say I think that you might agree that the strength, or at least the general acceptance, of the Judicial Council of Georgia will grow as more people are involved — irrespective of whether you increase the size of the Council in the next number of years, or whether you leave it the same. More judges'

involvement with the Council is certain to work to the best interest of the Council.

— Judge Followill

I know, and have little problem with, the fact that the politics of representation will be worked out. I would encourage that whatever method is used, it should assure that we get good, independent minds on the Council — dedicated people — and the job will be done.

— Huie

I am really pleased, also, with the prospects of how the Judicial Council will be restructured, and I understand it might be completed in July 1980. That is getting great response in our area, and the judges of our administrative districts feel that they are having input in the decisions made in the selection process.

I think that is an improvement.

— Judge McMillan

...On your reorganization, I do think you ought to have the two immediate past presidents — instead of the president of the State Bar — as members on the Council. The president of the State Bar just simply does not have time. I do not consider my first year on the Council effective. It takes some time to get onto it. The liaison should be the immediate past presidents.

— Harrington

Planning and Goals

I also urge the Council to look at the Long Range Goals for the Court System of Georgia, which were recommended to you some three years ago by a committee chaired by Judge Followill. Are they still the goals of the Council? If not, change and revise them. If they are, then look to see what accomplishments have and have not been made in the past three years. What can be done to accomplish these goals in the future? Remember that they can only be attained by getting the cooperation

and support of the other two branches of government.

— Justice Hall

The Judicial Planning Committee should be the planning agency for the courts. I am a little disappointed in the time this concept has taken. We still don't have the votes in the crime commission to adequately plan for federal funds for the courts. The JPC plan called for law clerks, and that has been taken out by the crime commission as well as the recommendation of the long-range plans and goals as to probation. We can't support ourselves in the crime commission as to those plans developed by the courts. It is my understanding that when the courts made their plans they would not be vetoed by the crime commission except when they were not in compliance with an overall plan for federal funds for the state.

Those are the things that I think are important and should be addressed. I would not like to see them abandoned and put on the shelf!

— Judge Pope

...On a more long-range basis, I would suggest to you that since the Supreme Court and the Council will be working hand-and-glove, that the Supreme Court and the Council try to embark upon and effectively extend the concept of the Long Range Planning Committee towards scheduled implementation of a long-range goal or plan to really create a very meaningful judicial branch of government in Georgia.

This needs to be done so that you will be able to go to the General Assembly as a real, co-equal third branch of government, instead of a many-splintered thing.

I really hope that at some point in time you will be able to get maybe two and one-half per cent of the state budget for the judiciary.

— Judge Stolz

I agree...that...what's done this year will determine the future of the Judicial Council, and I want to pledge to you, as a former member and as a person who is really interested in the judicial system of Georgia, to support you in every way I can by contacting members of the General Assembly to try to see that you are adequately financed...

I want to assure you that I will do everything I can. I think it is important that we convince the people, legislators and executives that the judicial branch of government is and rightly should be co-equal with the other two branches.

— Judge Calhoun

"I would encourage that whatever method (of selecting Council members) is used, it should assure that we get good independent minds on the Council — dedicated people — and the job will be done."

— W. Stell Huie



JUDGE JAMES B. O'CONNOR PRESIDES AT JULY MEETING OF JUDICIAL COUNCIL
(L-R) Bob Doss, AOC director; Judge O'Connor; Chris Perrin; Judge Frank S. Cheatham, Jr.; W. Stell Huie

Judicial Education

There is one other suggestion, for whatever input the Judicial Council may have with the Institute of Continuing Judicial Education. I would like to see more regional meetings planned, which would perhaps allow more judges to take advantages of these educational seminars.

— Judge Followill

I think it is very important that the Council address itself to the educational restriction that the General Assembly placed upon superior court judges that allows them only five days of training each year. I think we are going to have to get this restriction eliminated. There are no such restrictions on state, probate and juvenile court judges. The superior court judges must have the opportunity for continuing education and they must be able to go to the National [Judicial] College and other colleges to do so, both-in-state and out-of-state. I think that needs to be addressed.

— Judge Pope

"I would like to see more regional meetings planned which would perhaps allow more judges to take advantage of these educational seminars."

— Judge Kenneth B. Followill

"I reiterate what Judge McMillan said about probation being a judicial function. It should be changed from the executive to the judicial branch of government."

— Judge Marion T. Pope, Jr.

Indigent Defense

I would also like to urge active participation of the Judicial Council/AOC with the Georgia Indigent Defense Council. I hope that you will keep on working with them so that we can have true representatives on that council — so they can express the views of the judges, lawyers and everybody. I hope that the AOC will continue to work with that group of people.

— Judge Bell

Probation

...I understand the movement is underway on this probation business. That is an im-

portant, *judicial* function, and a lot of people have worked on that very hard over the years. I feel like there is a chance we will receive some recognition in that regard from the Governor's office. That is one of the goals that has been listed as a long-range goal of the work of the Council/AOC. So I ask you to continue efforts in that area.

— Judge McMillan

I reiterate what Judge McMillan said about probation being a judicial function. It should be changed from the executive to the judicial branch of government. I understand that the Office of Planning and Budget is presently studying this transfer.

— Judge Pope

...I think we need to educate the public in some way that our probation system is a lot better than it used to be.

— Judge Gray

Procedural Matters

I do want to say that the probate court, of course, has many problems, and I have tried to enunciate these problems from time to time with different groups that I have been involved

with. Hopefully, through some constitutional revision, these problems can be cured. I feel like it can be done simply in a measure that might be implemented prior to any constitutional revision.

What has really disturbed me since I have been on the bench is the necessity to have *de novo* appeals from the probate courts to the superior courts. I have always felt like this was a waste of judicial manpower.

The Constitution now provides, as you know, that there shall be an appeal from the probate court to the superior court "as provided by law," so that by legislatively amending Title 6, we can accomplish this proposed change. In those cases where there is neither a request for a jury trial or the consent appeals procedures, I have suggested that the probate judges hear the matter *without* a jury — simply apply the facts and make the conclusion of the law.

I think this matter really should receive some serious consideration, and I would like the Council to endorse this idea.

— Judge William K. Stanley, Jr.

I agree with Judge Stanley, to a certain extent, that *de novo* appeals from the probate court should be abolished. All *de novo* appeals should be abolished because it is a waste of judicial time and judicial powers.

— Judge Calhoun

I am concerned about the attitude of the public toward our court system and the administration of justice, the general attitude of disrespect for the law and courts which seems to catch courts up with government and other established authorities. I'm talking specifically about civil litigation. I am concerned about two things. One is the attitude of clients that the likelihood of a bizarre result in court is such that settlement of an issue, even an unfavorable compromise, is more palatable than the risk of going to court.

The second thing is the cost of civil litigation.

I am aghast at the fees we have to charge our clients and the costs of maintaining an organization to handle complicated civil litigation. The cost is horrendous, and lawyers are not making more money. They are making less, when you consider that we have not kept up with inflation.

We have virtually priced ourselves out of personal representation.

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— Wilton D. Harrington

That's why we have not only legal aid, but have gone to prepaid legal services because the profession has almost abdicated its responsibility to individual clients. It's priced itself out of representing the average man and is on the verge of pricing itself out of representing the average businessman. I don't know the answer.

I would hope, as this Council has been preoccupied with the pressures put on the system by the revolution in the administration of criminal justice, that it would also turn its attention to the civil side, and that it would concern itself with the increasing costs and demands placed on litigants.

— Huie

I mentioned this while I was on the Council. We ought to do away with some of the strikes in felony cases. It is ridiculous to have 42 jurors to qualify in order to get 12. It is a waste of manpower and a waste of time. We ought to do away with the requirement for unanimous verdicts in civil cases. I would like to see legislation drawn for 10-2 verdicts in civil cases.

With reference to divorce cases, where the defendant demands a trial by jury; he should have the right to demand a jury trial but he should have to ask for it within 10 days of the appearance date. Parties should not be able to come up at the last minute and demand a jury trial — so that the court can plan its work.

— Judge Gray

Senior Judges

I am going to talk about senior judges because that is what I am now. Judge [C. Cloud] Morgan kind of watches me every day to see what I am doing down there, and he has me assigned to a lot of things. One of the things I am doing for the Macon circuit is handling

most all domestic relations trials. Once, I was getting ready to go into the courtroom and I didn't even have the new laws that had been passed by the General Assembly. What I think the AOC had done was mail all the *regular* judges that and did not mail them to the senior judges. I had to run in to Judge Morgan and borrow his copy of the new bills so I could hold court. If I may, let me suggest that you see that the new laws that have come out are sent to the senior judges so that we can comply with and go by them. Check the mailing list at the AOC, and see that the active senior judges are on it. Please keep a mailing list of the active senior judges.

— Judge Bell

In addition, I would request the Council do something to let the public know the functions of the senior judges.

— Judge Gray

Court Reporting

I am really interested in court reporting — as most of you know — and I was on the Board [of Court Reporting], but I am off now. I hope that court reporting will become better and better, and that they will make strides in the future. I hope that whatever problems exist now between the Council and the Board of Court Reporting and the judges can be worked out and we can have smooth sailing from now on. I know there is a problem, and it should be presented to the Council, and I hope it can be worked out really quickly.

— Judge Bell

"I would hope, as this Council has been preoccupied with the pressures put on the system by the revelations and revolution in the administration of criminal justice, that it would also turn its attention to the civil side, and that it would concern itself with the increasing costs and demands placed on litigants."

— W. Stell Huie

...I know there is a thing going on now with the court reporting board as to temporary permits issued by the sitting judge of the superior court. But the judge of the superior court has the responsibility to make a record in a case, and the judges who sit in metropolitan areas may not realize the problem that you have when you are out in small counties and

there are not enough certified court reporters around. If somebody wants to enter a guilty plea and has been in jail two weeks in Baker County, Echols County, or some place, and the nearest court reporter may be 75 miles away, you've got to have the authority to have somebody there that you can designate to take that plea. I think the judges have the authority — no matter what the Judicial Council does or the court reporting board does — the judge still has that authority, and I don't think you can take it away from him. I don't think you *should* take it away from him, or attempt to take it away from him.

— Judge Calhoun

Council/AOC Services and Studies

Services of the Judicial Council are not limited to services to the judges. Anybody who has been a judge in a county like Echols County, or some of the other counties in Georgia, knows that the clerk's office was a shambles in some of the counties. The clerks had no idea what they should do. Some counties didn't even have the Code. The clerk didn't follow the law. The Judicial Council put out a clerk's handbook and solved problems. There has been a great improvement in the service to the people because of the work the Judicial Council has done. The work that the Judicial Council has done in case counting, reporting and in the recommendations to the General Assembly on the creation of new judgeships is one of the greatest steps that we have made.

Before that time, of course, it was all politics.

I am proud of the fact that every governor that we have had since this Council was organized has followed the recommendations of the Council as far as the creation of new judgeships is concerned.

ships is concerned. They refused to split circuits on the recommendation of the Judicial Council. I do think this shows that the Judicial Council does have some standing in the state. I think this is great.

— Judge Calhoun

I think it is very important that a study be made on circuit boundaries. These have not been looked at for hundreds of years and we have workloads that are so different among the circuits.

— Judge Pope

The Third Branch

I feel as strongly as anybody in this room about the question of the independence of the judicial branch.

I feel just as strongly about the need for the independence on the part of the executive branch and the legislative branch. I think that the public needs to know that the importance of the independence is not just a feather in the

cap of the judges, lawyers, or court officials.

This was put into the Constitution of the United States almost two hundred years ago for a very good purpose. It was put there to protect the public — *not* to make life easier for judges or lawyers, not to make life easier for governors or legislators.

I have had the opportunity in the past to observe some things about the independence, or lack of it, as between branches, and it has come to my attention a lot of times that nobody or no members of any branch gives up any power voluntarily. It is just a fact of life in government and in politics. The General Assembly was hard put to get away from the executive branch the appropriating authority that it got away from them back in 1961-1962. It finally got away entirely in 1966.

The executive branch has difficulties from time to time in holding the authority and the independence it needs. These two have fought one another for a long time. It seems to me the judicial branch has been inclined to sit on the sidelines and say, "Well, it is beneath our dignity to get into that sort of a fight." I do not think we ought to get into a gutter fight with anybody. I think the best way for the judicial branch (and I include in that every lawyer because of the fact that we exist as lawyers by reason of a rule of the court)...I think we ought to earn our way in independence by doing a good job, and I think that I don't have the insight to sit down and give you the specifics of what jobs we ought to do, but I think everybody in this room knows.

I think the Council and the system has grown up since its creation. It has made some considerable strides in getting things done.

— Clarke

"...I have come to the conclusion that if this Council is unwilling to look at this subject of sentencing and the various solutions to the problems that are now being suggested around the country that someone else is going to do it for us."

— Judge Frank S. Cheatham, Jr.

"I think (disparity of sentences) has been improved a great deal since they let judges do all the sentencing. I would emphasize that I would want to be very careful to never take away from the judge the ability to sentence."

— Judge J. Bowie Gray

The judicial article should also receive top priority. It is vitally important. I do not think we should neglect the work the Council has done and needs to do about the judicial article. We tried it one time, and it didn't fly.

I think we should go back again at it.

— Judge Pope